

**Senate File 2200 - Reprinted**

SENATE FILE 2200  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3141)

(As Amended and Passed by the Senate February 22, 2010)

**A BILL FOR**

1 An Act relating to transfer of guardianship for a child in need  
2 of assistance to the probate court.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.104, subsection 7, Code 2009, is  
2 amended to read as follows:

3 7. a. Following an initial permanency hearing and the  
4 entry of a permanency order which places a child in the custody  
5 or guardianship of another person or agency, the court shall  
6 retain jurisdiction and annually review the order to ascertain  
7 whether the best interest of the child is being served. When  
8 the order places the child in the custody of the department  
9 for the purpose of long-term foster care placement in a  
10 facility, the review shall be in a hearing that shall not be  
11 waived or continued beyond twelve months after the initial  
12 permanency hearing or the last permanency review hearing. Any  
13 modification shall be accomplished through a hearing procedure  
14 following reasonable notice. During the hearing, all relevant  
15 and material evidence shall be admitted and procedural due  
16 process shall be provided to all parties.

17 b. In lieu of the procedures specified in paragraph "a",  
18 the court may close the child in need of assistance case by  
19 transferring jurisdiction over the child's guardianship to the  
20 probate court. Before transferring jurisdiction, the court  
21 shall direct the probate clerk to issue letters of appointment  
22 for guardianship and docket the case in probate.

23 Sec. 2. Section 633.559, Code 2009, is amended to read as  
24 follows:

25 **633.559 Preference as to appointment of guardian.**

26 The Except for a minor child for whom the court's  
27 jurisdiction over the child's guardianship was established  
28 pursuant to transfer of the child's case in accordance with  
29 section 232.104, the parents of a minor child, or either of  
30 them, if qualified and suitable, shall be preferred over all  
31 others for appointment as guardian. Preference shall then be  
32 given to any person, if qualified and suitable, nominated as  
33 guardian for a minor child by a will executed by the parent  
34 having custody of a minor child, and any qualified and suitable  
35 person requested by a minor fourteen years of age or older, or

1 by standby petition executed by a person having physical and  
2 legal custody of a minor. Subject to these preferences, the  
3 court shall appoint as guardian a qualified and suitable person  
4 who is willing to serve in that capacity.

5 Sec. 3. Section 633.675, Code 2009, is amended by adding the  
6 following new subsection:

7 NEW SUBSECTION. 5. Notwithstanding subsections 1 through  
8 4, if the court appointed a guardian for a minor child for  
9 whom the court's jurisdiction over the child's guardianship  
10 was established pursuant to transfer of the child's case in  
11 accordance with section 232.104, the court shall not enter an  
12 order terminating the guardianship before the child becomes  
13 age eighteen unless the court finds by clear and convincing  
14 evidence that the best interests of the child warrant a return  
15 of custody to the child's parent.

16 Sec. 4. Section 633.679, Code 2009, is amended to read as  
17 follows:

18 **633.679 Petition to terminate — cases transferred from**  
19 **juvenile court — request for voting rights reinstatement.**

20 1. At Except as otherwise provided in subsection 2, at any  
21 time after the appointment of a guardian or conservator, the  
22 person under guardianship or conservatorship may apply to the  
23 court by petition, alleging that the person is no longer a  
24 proper subject thereof, and asking that the guardianship or  
25 conservatorship be terminated.

26 2. If the court has appointed a guardian for a minor child  
27 for whom the court's jurisdiction over the child's guardianship  
28 was established pursuant to transfer of the child's case in  
29 accordance with section 232.104, a petition shall not be filed  
30 asking that the guardianship be terminated or modified until  
31 at least six months has elapsed from the date the order was  
32 entered appointing the guardian.

33 3. A person under an order appointing a guardian which order  
34 found the person incompetent to vote may include a request for  
35 reinstatement of the person's voting rights in a petition to

1 terminate the guardianship or by filing a separate petition for  
2 modification of this determination.